IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2268 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

LALABHAI DHANABHAI PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

==========

Appearance :
MR KV SHELAT for Petitioner(s) : 1, 1.2.1,1.2.2
MR.K.L. PANDYA, ASSTT. GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

==========

CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 21/06/2007

ORAL JUDGMENT

Deceased Dhanabhai Chagganbhai Patel is before this Court through his heirs and legal

representatives. During his life time deceased Dhanabhai had purchased land bearing Survey No.86/2, i.e. Block No.103, admeasuring 1 acre, 12 gunthas at Village Prantia, District Gandhinagar from one Vadilal Maganbhai Patel, who too is dead, by registered sale deed dated 28.11.1967.

It was after lapse of four years that the Prant Officer, Viramgam initiated suo motu proceedings against Dhanabhai Chagganbhai Patel, who was alive at the relevant time. The Prant Officer, Viramgam did not find any reason to disturb the possession of the petitioner of the suit land. He ordered that the petitioner may get necessary mutation entries made in his favour, in the Record of Rights.

The said order of the Prant Officer, Viramgam was not challenged by the State Government. After long 14 years in the year 1986 the Prant Officer, Gandhinagar once again suo motu took the matter for perusal and issued notice to the petitioner herein (the heirs and legal representatives of the deceased Dhanabhai Chagganbhai Patel). The Prant Officer, Gandhinagar

set aside the sale of 1967 by order dated 05/11.11.1997 in Fragmentation Case S.R. No.777 of 1986. The same was taken in revision before the Deputy Secretary (Appeal), Revenue Department, State of Gujarat. The same was rejected by the revisional authority by order dated 07.11.2000 and the order was upheld.

2. Mr.Shelat, learned advocate appearing for the petitioner vehemently contended that sale of 1967 which was once examined by the Prant Officer in suo motu proceedings and had not found anything objectionable is once again suo motu taken for perusal in the year 1986, wherein by order dated 05/11.11.1997 the sale is set aside. He submitted that the order is hit by the law settled by the decision of this Court, upheld by the Hon'ble the Apex Court that the action, if any, is to be initiated by the authorities, the same should be initiated within a reasonable time, in case where there is no specific time limit is prescribed by the law.

3. Learned advocate Mr.Shelat relied upon a decision of Division Bench of this Court in the matter of **Valjibhai Jagjivanbhai Vs. State of Gujarat** reported in 2005 (3) G.L.R. 1852.

Mr.Shelat submitted that this decision has already stood the scrutiny of the Hon'ble the Apex Court and the same bears stamp of approval of the Hon'ble the Apex Court.

4. Learned Assistant Government Pleader Mr.K.L. Pandya is not able to dislodge any of the submissions of the learned advocate for the petitioner. In the result the petition is allowed. Orders dated 06.11.2000 and 05/11.11.1997 are quashed and set aside. Sale dated 28.11.1967 is upheld. Rule is made absolute. No order as to cost.

(RAVI R. TRIPATHI, J.)

karim